

MINUTES  
SPECIAL JOINT MEETING  
CITY COUNCIL  
BURKE COUNTY COMMISSION

October 19, 2015

Mel L. Cohen, Mayor

Sally W. Sandy, City Manager

Louis E. Vinay, Jr., City Attorney

John H. Cantrell     )  
Forrest A. Fleming   ) Councilmen  
Sidney Simmons     )  
Ronnie Thompson    )

Others in attendance: Burke County Commissioners Johnnie Carswell, Wayne F. Abele, Sr., Maynard M. Taylor, Jeffrey C. Brittain, P.E., and Jack Carroll; Bryan Steen, County Manager; Kay Draughn, Clerk to the Board; County Attorney James R. Simpson, II; members of the media, and concerned citizens.

I. The meeting was called to order in the Commissioners Board Room in the Burke County Services Building, 110 North Green Street at 3:00 p.m. by Mayor Cohen. Mayor Cohen mentioned the bond referendum in March and encouraged citizens to vote.

Burke County Board of Commissioners Chairman Carswell called the meeting to order and called roll noting that Commissioner Taylor was not present. (Commissioner Taylor arrived at the meeting at 3:02 p.m.)

### **Presentations**

1. Summary of Potential Downtown Jail Project – Jack Hemphill and Frank Randall of Hemphill/Randall Associates.

Jack Hemphill presented a history of the jail design beginning in April 2015. Hemphill shared a schematic design with the Commission and Council. He stated that since the proposed jail would be built in the downtown district there were some special considerations made during design to follow City zoning guidelines. One item Hemphill asked the boards to take note of was a small parking lot by which to access mechanicals. Hemphill stated that all jails must contain a generator which needs to be tested weekly. Hemphill continued pointing out various items of interest at the proposed facility. There was some discussion of the underground storm/sewer pipeline that is below the vacant lot adjacent to Bouchelle Street and a proposed 152 space parking lot over that pipeline. Hemphill then addressed the possibility of building a parking deck, stating there were probable parking issues with either design. He stated the County would apply to the City for consideration of using existing parking in the requirements.

Hemphill shared the protocol for inmates entering the jail and showed their projected movements on the schematic. Hemphill stated there would be an elevator to take inmates up to courtroom level. He then shared the planned emergency evacuation exits, showing photos of Ashe County and Wilkes County jails and pointed out areas of refuge should inmates be evacuated.

Hemphill shared a pencil sketch of what the proposed jail could look like and talked about specific details including double-hung windows to help keep it looking as if it belongs in a downtown district. He stated the reason for the low decorative fence around the front is to keep citizens away from the building to prevent graffiti and the possibility of placing bombs around the building.

## 2. Comments/remarks regarding proposed project and City Zoning Requirements – Lee Anderson

Lee Anderson stated the City has been operating under a new Zoning Ordinance since January 1, 2015. The new Zoning Ordinance was based on the Mission 2030 plan which had input from many sectors including the City, County, business people and other interested citizens. Anderson stated the goal of the Zoning Ordinance is to promote the Mission 2030 plan which is an economic development plan for the community/county. A new zoning classification was established which required downtown businesses and land uses be compatible with one another to encourage the investment of additional business.

Anderson stated that certain standards must be met and he reviewed some of those standards. He stated the standards help the new business as well as existing business to continue operating in a good environment. He acknowledged that types of uses change through the years.

Anderson stated when the City was approached by the County to alter the Zoning Ordinance in 2014 jails were not permitted in the central business district and had not been a permitted use since 1985. Anderson spoke about the post office leaving downtown in the 1990s. He stated that many people were concerned because the post office is an economic driver bringing people to the downtown area. However, it was not the death-knell of downtown relocating it and provided different opportunities. When the County asked for the jail in downtown the City wanted to accommodate the request because it was important to all the citizens of Burke County. The County Commissioners assured the City during discussions at that time that the City's design guidelines would be met.

When the City began looking at the design and how it fit with the guidelines but also how it fit with the infrastructure, they noticed a proposed street closing. It gave City staff concerns because of a large 60" storm drainpipe buried at a depth of 45 feet which was installed in the early to mid-1970s. Anderson stated there is a stream that flows through that pipe. He stated the pipe was installed "above standards", but at some point there would be a failure of the pipe. Anderson stated it is of great concern if a parking lot is

built above the pipe. He stated the pipe will fail and in turn the parking lot will fail. Anderson stated that Bouchelle Street carries primary traffic as a by-pass during certain times of the year, as well as providing an alternate route for emergency response equipment.

Anderson stated there is a process for Alternative Design in the Zoning Ordinance for instances where the guidelines cannot be met. This is to offer alternatives to meeting guidelines not to ask for waivers in order to not meet any of the guidelines put in place. Anderson stated that the City and County have not talked about the nuts and bolts of the design and what alternatives may be requested. Anderson shared a concept drawing of the proposed jail site which would enhance the pedestrian and vehicular traffic. He suggested the land over the pipeline become a park/green space rather than putting public facilities over top of the pipeline. Anderson stated that other enhancements would be the possibility of a three-level parking deck in the 220/222 parking space range. This design is an example of an alternative design and not a requirement.

Chairman Carswell stated there would be a period of question and answers:

Councilman Thompson asked Anderson about a variance for parking on Green Street and whether that could be counted toward the parking requirements. Anderson stated that would be a reasonable request. He stated the City did something similar when the movie theater was built.

Councilman Thompson asked how much it would cost if a sleeve was installed in the storm pipe. Anderson stated the estimates the staff has received are in the half-million dollar range.

Councilman Simmons stated his concern for pedestrians crossing at the site of the proposed parking deck and asked about a pedestrian signal. Anderson stated staff would work with NCDOT and suggest a "hot button" so a stop could be made for pedestrian crossing.

Commissioner Brittain questioned the mechanical area and asked if it could be secured for mechanical use only and not for public access. Hemphill stated it could be done but there were requirements to meet and the County would need to submit an alternative design.

Commissioner Taylor stated that Anderson commented that "it was not a matter of if, but when" the storm pipe would fail. Commission Taylor then asked Anderson if the area above the storm pipe were made into a park whose responsibility would it be when the pipe failed and "swallowed somebody". Commissioner Taylor then stated that with making this a park area it would increase traffic to the area rather than eliminate it. Anderson stated the pipe will fail and currently the liability is that of the City. Anderson stated that if it were to remain an open area the City would continue to hold the liability.

However, if it was built upon as a parking lot by the County, then the City would ask to be relieved of all responsibility and liability for the storm pipe.

Mayor Cohen stated one alternative to the storm pipe issue. He stated that if a value was put on Bouchelle Street it would be about \$200,000. Mayor Cohen suggested the City and County split the cost of putting a sleeve on the pipe, using the value of the street as the City's portion of the cost of that sleeve.

Councilman Fleming stated he would like the County Commissioners to seriously consider looking ahead to the next 50 years. His opinion is the Commission would be well-advised to put the money into a parking deck totally eliminating the responsibility of the County in regard to the 60" storm pipe. He stated that he understands a parking deck is not an inexpensive project, but the goal of building a new jail behind the existing courthouse is a long-range plan. He stated that instead of taking on additional liability for the storm pipe he feels the Commission would be well served to put the dollars into the construction of a parking deck.

Mayor Cohen stated that both the County and City have a problem to work with. Mayor Cohen suggested looking at alternate ideas and offered for the City to hire a consultant of the County's choosing that could look at both sides and find a solution that is workable for both the County and City.

Commissioner Abele asked about the cost of a parking lot on the Bouchelle Street site. Hemphill stated Mike Hesterson and Mark Vanhoy from Vanhoy contractors were present and were prepared to answer that question. Vanhoy stated it would be about half the cost of the parking deck.

Commissioner Carswell asked if a pedestrian crosswalk from the proposed parking deck would be a violation of any ordinance. Anderson stated it would not be a violation but he would need to work with DOT to get that permitted because it would be crossing a state maintained road.

Commissioner Carroll stated there were currently 130 parking spaces behind the courthouse. The Meeting Street lot currently has 64 spaces. He stated the cost would be \$1.5 million for 36 spaces or \$42,000 per space. He stated there are currently a number of parking spaces along Green Street between Concord and Meeting. He stated he is not in favor of spending millions of dollars on a parking deck when there are plenty of available parking spaces.

Anderson stated the City requirement is one space for every 300sf of office space. The way it was calculated using existing office space plus the offices in the proposed building. He also stated that the parking space guidelines is just that. Burke County will need to assess how much parking is necessary to conduct business to determine how many space are really needed.

Commissioner Carroll stated the parking lot across Bouchelle Street (over the pipe) was a lot less expensive than a parking deck. Anderson stated that it would cost less only until the storm pipe failed. Commissioner Carroll stated he heard the pipe was in good condition and nothing is going to happen to it. Commissioner Carroll asked when would be a good time to put a sleeve on the pipe.

Anderson stated that the City's current assessment of the storm pipe is that it is in good condition. Some of the tar coating has fallen off over the years. Anderson stated that what has been seen around town is that corrugated pipe has been lasting between 50 and 75 years under normal conditions. The storm pipe in question was installed in 1974 so life-span is probably another 20 years, but there is no guarantee.

Commissioner Carroll stated that public works departments routinely dig up asphalt and change pipe. The City Manager asked Anderson to give an overview of the scope of work to change this particular storm pipe.

Anderson stated that in talking to general contractors about how to do this he has been told they would have to trench down a number of levels, almost like an upside down pyramid. Every 20 foot of depth the edges would need to be shored up adding temporary support members before excavating again. Anderson stated that should this occur it is unknown whether the corps of engineers would allow the replacement of this pipe. Anderson stated this is a blue-line stream and in today's world this type of installation would not be allowed. Anderson does not know if the corps of engineers would grandfather this or not.

Mayor Cohen stated again that the City was willing to work with the County to sleeve the storm pipe prior to beginning construction. Commissioner Carroll asked if it would be acceptable to split the cost between the County and City. The Mayor stated he could not speak for everyone but thinks it would be feasible.

Mayor Cohen stated he does not want to see the courthouse leave the downtown area but is against City residents being taxed twice to pay for something their County taxes are already paying for.

Commissioner Carroll stated for him it is a day of reckoning and it is time to make a decision one way or another.

Commission Taylor asked how many parking spaces would fit on the property and questioned the sleeve work. Anderson stated to put a sleeve on the pipe the contractor would need to dig down and create a hole big enough to drop 20ft sections of pipe into the opening and push those into the larger pipe, then grout fill any voids in and around the old pipe. It is a very involved process with a cost of approximately half-a-million dollars to complete.

Councilman Fleming asked if the 100 spaces are enough to be considered meeting the requirements of the code. Anderson stated that if there are enough parking spaces to

meet the needs the City would be reasonable. Anderson stated the City tries to be reasonable which is why the Alternative Design process is in place. He stated it is not a variance or a waiver but an opportunity to design a project that meets the needs while meeting the goals of the City zoning ordinance and objectives of the downtown area.

Councilman Fleming stated that he didn't want the public to walk away from this meeting thinking the City has plenty of parking and no one needs to be concerned. He feels the parking will be a concern, again encouraging the Commissioners to consider a joint-parking deck project.

Councilman Cantrell stated there has been much discussion about parking. He stated there were other needs presented in the past regarding the courthouse. He stated he felt making a quick decision would be a mistake and neither entity should be in too big of a hurry. Commissioner Carroll stated he has heard no needs for an upgrade to the courthouse.

Councilman Simmons asked about the drawing with the proposed park. He asked if there was a walking track around the proposed park. Anderson stated staff was just trying to show various uses for the area.

Councilman Simmons stated this should not be a winner or loser situation but both sides should come out winners. He stated his support for the idea of sleeving the pipe, building a parking lot over it, and getting on with the program.

Commissioner Taylor asked how many parking spaces were proposed across Bouchelle Street. Hemphill stated there were 152 spaces currently proposed. Commissioner Taylor asked if the parking lot were built would there be a need for a parking deck. Hemphill stated there would be no need for a deck.

The County Manager stated that for a jail that would be correct; however if new courtroom space was needed in the future then parking could become an issue again.

Commissioner Taylor said he was trying to calculate the difference in price of 150 spaces in the proposed area across Bouchelle Street versus the proposed parking deck. He stated it is less costly to build across Bouchelle Street for the same number of spaces. Commissioner Taylor asked if the pipe could be moved. Anderson stated it cannot be moved because of the stream.

Commissioner Carswell asked Hemphill if there could be future expansion into the area of the proposed parking lot. Hemphill stated there is that creek bed 40 feet below. Hemphill stated the old elementary school was on the site of the current courthouse and when it was demolished it was dumped into the void of Breakneck. Hemphill stated they have done some soil borings with irregular results. If it were to be used as a building site they would need to use pile foundations relatively deep. Hemphill stated it would be a lengthy and expensive process, but not undoable. He stated it would not be an easy process.

Commissioner Carswell asked the hypothetical question, which is built first the parking deck or the jail. Hemphill shared examples of ways to phase the project which would afford parking spaces during construction.

Commissioner Carswell stated he saw an elevator on the design presented at this meeting. Commissioner Carswell listed several concerns related to officer safety and elevators. He questioned whether there is another design which eliminates the elevator. Hemphill stated there are stairs to the courtroom level. He also stated an elevator is needed to meet ADA requirements.

Councilman Thompson asked the City Attorney about the procedure for a street closing. The City Attorney gave the timeline and guideline for street closure stating the City would also have to declare the land surplus. Commissioner Carswell asked if the County would need to make application for street closure. The City Attorney stated yes they would and the City would expedite the process as much as possible, however by law the timeline cannot be expedited.

Commissioner Carswell stated this is not something that the County will rush into. He stated there is much to talk about and would be unfair to citizens of Morganton and the County to rush the project.

The City Attorney stated the Alternative Design process is a very specific process and can only be expedited to a certain extent. It requires going before the Planning and Zoning Commission prior to going before Council.

Commissioner Brittain asked Anderson if he thought the sleeve process would be approved by the Corps of Engineers. Anderson stated a portion of the pipe below Meeting Street has been sleeved due to a past sink-hole. The City has not begun the process for approval and staff has not asked about it.

### **City of Morganton Review and Response to project questions – Mayor Cohen**

Chairman Carswell moved to the next portion of the meeting in which he asked the Mayor to respond to five questions.

Mayor Cohen stated the City Council has been dealing with this issue for the over 14 months during which time the Council unanimously approved a new Zoning Ordinance that, for the first time in 30-years, allows the construction of a jail in the downtown business district. After the May 4, 2015 unanimous vote not to close Bouchelle Street, relocating the courthouse was announced as part of the jail project. The City asked for and encouraged a meeting and the Mayor thanked the County Commission for calling for this meeting. The Mayor stated he feels the City and County can meet in the middle. He then responded to the Commissioners questions as follows:

1. Complete closing of Bouchelle Street between Meeting Street and Concord Street

The Mayor stated the complete willingness of the City of Morganton to close street.

2. Responsibility for maintenance of underground 60" drainage pipe.

The Mayor stated he feels that is an issue that can be worked out between the County and City. He stated there is a value to the property and the City would use that toward the sleeving process if that is what the County wants to do.

3. City of Morganton's willingness to waive City Zoning Ordinance Design Standards / Requirements related to this specific project and any expansion of the current Courthouse:

The Mayor stated that as Lee Anderson has shared the City is innovative in working with developers in the downtown area. The parking space requirement can be worked out. The building exterior can be worked out within reason.

The Mayor stated he could not speak to the loading dock(s) issue, but expressed willingness to hear ideas.

4. Percentage of financial participation from the City of Morganton toward total construction and all operational costs for parking deck(s).

The Mayor said the City would split that cost with the County for a parking deck.

5. Expeditious processing required permits

The Mayor stated that anyone who has had experience with Mike Crotts knows the City has one of the finest inspection departments in the State. Staff will expedite within reason.

The Mayor stated the City would like the jail/courthouse downtown but without taxing the citizens of Morganton more than their fair share as they are being taxed already as County residents.

II. Adjournment – The meeting was adjourned by both the City and County at 4:29 p.m.

Preparation of Minutes. These minutes were prepared by Mikela D. Russell, Assistant City Clerk. Copies of all resolutions, ordinances and orders referenced in these minutes are intended to be incorporated into these minutes as if fully set forth herein. Prior to including them into the official minute book, the minutes have been read and approved

by the City Manager and the City Attorney, then distributed to each member of the City Council for further review and final approval, at a subsequent Council Meeting.

A handwritten signature in black ink, appearing to be "M. P. ...", written over a horizontal line.

Mayor

---

Assistant City Clerk